

PATENT  
0505-4015

## REMARKS

The Examiner is thanked for the courtesy of a telephone interview on March 11, 2005.

Claims 1-7 are pending in the instant application. Independent claims 1 and 4 have been amended.

In paragraph 2 of the Office Action, claims 2-3 and 5-7 were rejected under 35 USC 101 as being directed to non-statutory subject matter. The Examiner stated that claims 2-3 and 5-7 "do not recite any structure or functionality to suggest that a computer performs the recited claims."

Independent claims 1 and 4 recite that the automatically performed steps are performed at or via a computer. The features of independent claims 1 and 4 are incorporated in dependent claims 2-3 and 5-7; hence, claims 2-3 and 5-7 recite by incorporation that the automatically performed steps are performed at or via a computer.

Claims 2-3 and 5-7 are believed to recite statutory subject matter. Withdrawal of the rejection of claims 2-3 and 5-7 under 35 USC 101 is requested.

In paragraph 4 of the Office Action, claims 1-3 were rejected under 35 USC 102(e) as being anticipated by U.S. Patent Publication 2001/0044767 (Madoff).

As discussed in the March 11 telephone interview, claim 1 pertains to a market participant who gets a "first look" at a new contra-side best market price before other market participants, when the market participant satisfies a condition.

The cited portion of Madoff, paragraphs 55-57 and 62, fails to show or suggest the features recited in claim 1. Rather, the cited portion of Madoff pertains to the specifics of an order matching algorithm operative at a central location, not a trader's location. Madoff's order matching algorithm does not notify participants when a new best price is received, and further

PATENT  
0505-4015

does not notify a particular market participant when a new best price is received, as required by claim 1. Instead, Madoff's algorithm just tries to match a newly received order.

Claims 2-3, in depending from claim 1, incorporate all of its features and so claims 2-3 are similarly patentably distinguished from Madoff.

Withdrawal of the rejection of claims 1-3 under 35 USC 102(e) is requested.

In paragraph 6 of the Office Action, claims 4-7 were rejected under 35 USC 102(e) as being anticipated the Streamer free real time stock quote service, [www.findarticles.com/m4PRN/1999/NOV](http://www.findarticles.com/m4PRN/1999/NOV) (Streamer).

Claim 4 is directed to a method of facilitating trading, comprising automatically, via a computer, notifying a selected party that is a market participant of a new contra-side best market price, and automatically, via the computer, notifying other market participants of the new contra-side best market price after a predetermined time from when the selected party was notified of the new contra-side best market price.

Claim 4 corresponds to the activity described in claim 1, except that claim 4 is from the viewpoint of a market whereas claim 1 is from the viewpoint of a market participant.

Streamer describes a streaming stock quote service that makes quotes available to all registered users at the same time. Streamer has no mechanism for selecting a particular user and providing a different quality of service to the selected user than to all other users. Specifically, Streamer fails to show or suggest notifying other market participants of a new contra-side best market price after a predetermined time from when a selected party was notified of the new contra-side best market price, as required by claim 4.

Claims 5-7, in depending from claim 4, incorporate all of its features and so claims 5-7 are similarly patentably distinguished from Streamer.

PATENT  
0505-4015

Withdrawal of the rejection of claims 4-7 under 35 USC 102(e) is requested.

In paragraph 5 of the Office Action, the Examiner indicated there were new grounds of rejection. Applicant traverses this point; the claims were previously amended to overcome the 35 USC 101 rejection, not to recite new subject matter. Accordingly, Applicant traverses the finality of the Office Action of January 12, 2005.

The claims are presently amended to clarify who the market participant is, as compared to the recited "other market participants". New matter has not been added.

All of the claims of the instant application are believed to be in condition for allowance. A Notice of Allowance is solicited.

Please contact the undersigned if there are any questions.

Respectfully submitted,

Date: March 11, 2005



Brenda Pomerance  
Reg. No. 36,894

CORRESPONDENCE ADDRESS:

Brenda Pomerance  
Law Office of Brenda Pomerance  
260 West 52 St. Ste. 27B  
New York, NY 10019  
212 245-3940